

**TIVERTON PLANNING BOARD
MINUTES OF MEETING
June 3, 2014**

Chairman Stephen Hughes called the regular meeting of the Tiverton Planning Board to order at 7:04 P.M. at the Town Hall, 343 Highland Road. Members present were: Vice Chairman Stuart Hardy, Patricia Cote, Rosemary Eva, Carol Guimond, Peter Corr, David Holmes, Peter Moniz and David Saurette.

Also in attendance were: the Planning Board's Clerk and Administrative Officer Kate Michaud, Director of Public Works Stephen Berlucchi, consulting engineer Deirdre Paiva of Commonwealth Engineers and Consultants and attorney Wyatt Brochu substituting for the Planning Board's Solicitor, Peter Ruggiero, Esq.

1. Maria G. Moreira – 990 Stafford Road – Tiverton, RI 02878 – Two (2) Lot Minor Subdivision (No Road Required) – Zoning Board Approval Required – Plat 213 / Lot 136 – 988 Stafford Road & 990 Stafford Road – R-60 Zoning District / Watershed Protection Overlay District – MN02-14 – Time Clock Waived – Continuance Requested by Applicant Ms. Michaud stated that she had spoken with attorney Raymond Holland, who was representing the applicant. He had requested a continuance of this item. No one was present on behalf of the petition.

Mr. Holmes made a motion to continue this item to the August 2, 2014 meeting. Mr. Hardy seconded the motion. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Guimond, Mr. Corr, Mr. Holmes, Mr. Moniz and Mr. Saurette voted in favor of the motion.

2. Church Community Housing Corp. – c/o Stephen Ostiguy, Executive Director – 50 Washington Square – Newport, RI 02840 – Community Development Block Grant Application Review to Determine if Proposed Activities are “Not in Conflict with the General Policies of the Tiverton Comprehensive Community Plan” (Town Council Public Hearing – May 27, 2014) Christian Belden, Senior Project Manager with Church Community Housing was present on behalf of the petition. Mr. Holmes asked why the Planning Board had not heard this petition before the Town Council. A discussion ensued, with Mr. Belden stating that the Town Council could amend and reprioritize activities during their Public Hearing with any comments from the Planning Board. He stated that by having the Town Council process completed first, the list of activities had been set and prioritized.

Mr. Corr inquired about activity #13 – Renovations at Apple Creek Apartments. (The complete list of activities is attached to these minutes.) He asked if this was located within the Watershed Protection Overlay District. Mr. Belden wasn't sure, but after a discussion it was determined that it was not located in the Stafford Pond watershed.

Mr. Moniz made a motion to find that the activities proposed were not in conflict with the general policies of the Tiverton Comprehensive Community Plan. Mr. Hardy seconded the motion. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Guimond, Mr. Corr, Mr. Holmes, Mr. Moniz and Mr. Saurette voted in favor of the motion.

3. Lach Investments, LLC – c/o Gregory Lach – 996 Seapowet Avenue – Tiverton, RI 02878 – Design Plan Review – Zoning Ordinance Article XX – Conversion and expansion of an existing 200 square foot garage into a mixed-use structure containing a two-bedroom dwelling and an office. Zoning relief will be required. (Proposed footprint – 576 square feet) – E/S Main Road, S/S Old Bulgarmarsh Road, General Commercial (GC) Zoning District – Plat 310 / Lot 152 - 2354 Main Road Owner Gregory Lach was present on behalf of the petition. A discussion ensued regarding the “mixed use” designation of the proposed building. Mr. Saurette disagreed with Alternate Building / Zoning Official Rhett Bishop's interpretation of a “mixed use” structure. Ms. Michaud noted that Zoning Board approval would be needed for the proposed setbacks.

Mr. Corr inquired about the drainage. Ms. Michaud stated that the project did not meet the threshold for a Planning Board review of the Site Plan.

Mr. Lach stated that the office space would be on the first floor and the office would have sole access to the basement. He stated that the office and residential spaces would be totally separate and that the office space would be utilized for his oil business. The basement would be used for storage and the building's mechanical equipment.

Mr. Hardy opined that the design was consistent with the small scale historic character of the area. He questioned the new signage located on the abutting vacant parcel. Mr. Lach stated that he was conducting business on this lot by selling firewood and growing sod and opined that the zoning ordinance was unclear on this point.

The Chairman reviewed aloud the design guidelines contained within Zoning Ordinance Article XX – Development Plan Review, Section 6.b. (page CDA: 81). Mr. Hardy opined that the proposed development would be an improvement and stated that he did not have a problem with the application. Mr. Holmes opined that guideline #2 (concerning large scale development) did not apply, but that the rest of the guidelines were consistent with the application.

Mr. Hardy made a motion to find that the Design Plan was consistent with the requirements of the Design Plan Review. Mr. Moniz seconded the motion. A discussion ensued. Ms. Eva asked the Solicitor if the Zoning Board would ask for a professional land surveyor's (PLS) stamp and if they would consider drainage and parking. Mr. Corr stated that he was concerned with drainage and that he would want an engineer's and surveyor's stamp. Mr. Brochu stated that the Planning Board could render a decision with qualifications or questions noted, or they could ask the applicant to return to the Planning Board with the exact plan that the Zoning Board would see. Mr. Brochu added that the Zoning Board could determine that more information was needed.

Mr. Lach described drainage patterns on the site, noting that there were railroad ties in the parking area and that the property drained to the south. Mr. Corr stated that he would have liked to see more information on the plan that was presented. Parking in the area was briefly discussed, with Mr. Lach noting that the existing on street parking in the area was not generated by his property. After a brief discussion regarding existing site conditions, Mr. Hardy amended his motion to include in a letter to the Zoning Board that the plan reviewed by the Planning Board had not been stamped by a PLS (professional land surveyor) and that no drainage plans were not reviewed by the Planning Board. Mr. Moniz seconded the amended motion. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Guimond, Mr. Corr, Mr. Holmes, Mr. Moniz and Mr. Saurette voted in favor of the motion.

4. Campanelli Properties of Tiverton – c/o Jeremiah Leary, Esq. – 1340 Main Road – Tiverton, RI 02878 – Request for Acceptance of Improvements and Release of Surety (\$428,000) – Cottrell Farms Major Subdivision – Phases I and II – W/S Fish Road, South of Route 24 – Cottrell Road and Alexandra Circle –

Ms. Michaud stated that attorney Leary had requested a continuance of this petition pending a meeting with Mr. Berlucchi, Ms. Paiva and Mr. Hughes. Mr. Corr made a motion to continue this petition to the August 5th Planning Board meeting. Mr. Hardy seconded the motion. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Guimond, Mr. Corr, Mr. Holmes, Mr. Moniz and Mr. Saurette voted in favor of the motion.

5. Mark DeMello – 1041 Old Stafford Road – Tiverton, RI 02878 – Request for Reduction in Surety – Watuppa Plantations Major Subdivision – S/S Bullfrog Lane, East of Countryview Estates - Plantation Drive – Final Plan Approved March 3, 2009 – Surety Set at \$250,000 on April 2, 2013 (Plan Not Recorded)

Owner Mark DeMello and attorney Cheryl Bernard were present on behalf of the petition. Ms. Guimond recused herself and left the table. Ms. Bernard stated that much of the work included on Commonwealth's estimate had been completed. She stated that the only item of disagreement was the granite

bounds, which had already been installed. The cost of this line item was \$12,375. Ms. Paiva stated that she had verified this to be true and that the bounds had been installed. She added that four (4) streetlights were missing from the estimate. Ms. Eva asked if the removal of the defeasible easement / Bullfrog Lane cul de sac had been included in the amount. Ms. Paiva replied in the affirmative referring to items number 6 and 10. Ms. Bernard stated that the components of the street lighting had been purchased, but they couldn't be installed without home construction. She stated that the purchased components cost \$40,000. Ms. Paiva estimated the remaining cost at \$1,800 per fixture. Mr. DeMello estimated that cost at \$3,200. Ms. Bernard requested a total surety of \$80,000.

Ms. Eva noted that she had visited the site and asked if the lots would be cleaned up. Mr. DeMello stated that he had called the police that day regarding the illegal dumping on site. Ms. Paiva recommended a gate with a lock be installed for security. Mr. DeMello stated that people had been dumping brush and household trash on his property, which he had been continuously cleaning up.

Ms. Paiva also recommended the installation of construction pads on the lots to keep construction vehicles off of the road to prevent damage. The Chairman asked if the lots would be sold. Mr. DeMello replied that he would either sell lots or construct houses for sale. Mr. Holmes asked if there was a precedent for reducing surety in this way. Ms. Bernard stated that the purpose of the surety was to ensure completion of the project. She stated that much of the work was already complete, including installation of the top coat of asphalt adding that the cost of the top coat plus a 15% contingency would be held under the applicant's proposal. Ms. Paiva confirmed that the top coat and berm had been completed, but that these items would remain in the estimate in case of a problem.

The following calculation was made to adjust the proposed surety figure:

\$78,495	Estimate for Work
<u>- \$12,375</u>	Cost of Bounds (Already Installed)
\$66,120	
<u>+ \$3,200</u>	Installation of Streetlights
\$69,320	
<u>+ \$10,398</u>	15% Contingency
\$79,718	

The Chairman asked if silt sacks had been installed. Mr. DeMello replied that they **had not but** would be installed before the weekend. He stated that he had mistakenly purchased the wrong size, but had recently acquired the correct size. A discussion ensued regarding whether or not the estimated surety amount should be doubled, as is allowed under Land Development and Subdivision Regulations Section 23-74.

Mr. Moniz made a motion to reduce the surety to \$80,000. Mr. Corr seconded the motion. Ms. Eva noted that the Street Committee was having problems with reduced sureties and the effects of the passage of time. She asked how long it would take for the lots to be completed and the road to be accepted? Mr. DeMello replied that he did not know. The motion passed 7-1. Mr. Hughes, Mr. Hardy, Ms. Cote, Mr. Corr, Mr. Holmes, Mr. Moniz and Mr. Saurette voted in favor of the motion. Ms. Eva voted against the motion. Ms. Guimond did not vote.

Ms. Guimond returned to the table.

3. Town Planner & Administrative Officer

A. Administrative Officer's Report The May AO Report was not ready.

B. Construction Update: Ms. Paiva review construction progress for:

1. Stafford View Farm Ms. Paiva stated that there had been little progress on construction. She stated that erosion control had been installed and some grubbing had occurred.

2. **Tiverton Public Library** Ms. Paiva stated that site work was underway and that drainage was being installed this week and last week. Inspections would continue.
3. **William Barton Estates – Discuss Options for Compelling Completion of Improvements** Mr. Berlucchi noted that a sink hole was present in the roadway that needed repair. The subdivision improvements have not been completed or accepted. Mr. Berlucchi stated that he had spoken with the developer (Tom Costa of Puritan Management) who had indicated to him that he was walking away from completion of the development.

Mr. Brochu stated that if the work remaining exceeded the surety, that title work would be needed to explore options. He also stated that the sink hole could be an issue aside from surety as well, and that the Building Official, DPW Director, Police Department and legal counsel would need to determine if this was a safety issue and if it was is it a public nuisance or a private matter?

4. **Construction Specifications: Updates Recommended for Hearing**
 - a. **Include language limiting the amount of time that a base course of asphalt can be installed without a top course.** Mr. Berlucchi stated that something needed to be done to prevent the extended period between base coats and top coats of asphalt within developments. Ms. Paiva suggested that the base coat of asphalt required thickness could be increased to 2.5". Mr. Berlucchi opined that the time frame was more important. He expressed concern regarding an increased thickness of asphalt and its effect on existing driveways.

A discussion ensued regarding road acceptance prior to the buildout of lots. In the past, top coats were postponed to allow for home construction so that the pavement wasn't damaged by construction equipment. Ms. Saurette opined that pavement should be sufficiently strong to handle construction equipment traffic. Mr. Berlucchi suggested setting a time clock on the amount of time that a base coat of asphalt can be installed without a top coat. (Note: the Land Development and Subdivision Regulations currently require a minimum of one year, including one winter season, between base and top coats.) Mr. Brochu stated that another option was to increase the amount of surety held.

Mr. Saurette made a motion to move to advertising for a public hearing on the amended specifications including the edits proposed in the draft distributed. Mr. Hardy seconded the motion. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Guimond, Mr. Corr, Mr. Holmes, Mr. Moniz and Mr. Saurette voted in favor of the motion.

C. Town Planner Items

1. **Challenge Grant Project: Main Road & Bliss Corners Zoning**
 - a. **Public Hearing Scheduled for June 9** There was no discussion of this item, only an announcement of the hearing date.
2. **Update: Stone Bridge Abutment Repairs**

The Stone Bridge plan was still under review by RIDOT.
3. **Seaside Gas Update / RWU Community Partnership Center** Ms. Michaud stated that a press release had just gone out officially announcing the partnership and the kickoff of the project.

D. Miscellaneous

1. **Grow Smart RI Land Use Training – To be Rescheduled for September** Ms. Michaud noted that the May training which was cancelled by Grow Smart, but would be rescheduled for a yet to be determined date in September.

4. Tiverton Planning Board

A. Solicitor's Report

1. **Memo from Statewide Planning Distributed RE: Love's Travel Stops and Country Stores, Inc. v. Town of Hopkinton Planning Board** Mr. Brochu stated that the Planning Board should follow its existing requirements and standards in accordance with the Land Development and Subdivision Regulations. He stated that an appeal of this decision was possible.

B. Earth Removal – Draft Revisions to Town Code Chapter 38 – Town Council Public Hearing Scheduled for July 14th Ms. Michaud agreed to recirculate the draft amendments that had been recommended by the Planning Board.

C. Review of Planning Board Fee Schedule and Recommendation to the Town Council – Most Recent Fee Schedule Revision = 3/9/2009

1. Fee Survey Distributed Ms. Michaud distributed documentation, including a memorandum from Town Administrator Matthew Wojcik explaining the criteria for the fee schedule review. Ms. Michaud's report also included fee comparisons from Middletown, Barrington, Bristol, Narragansett, East Greenwich and Coventry.

The Chairman stated that he had performed an analysis, comparing fees in Tiverton, Middletown, Barrington and Bristol for a hypothetical four (4) lot and a twelve (12) lot subdivision. He noted that Tiverton's current fees were very close to those in the other communities. Ms. Michaud suggested a clarification on the fee for a Major Land Development – Commercial / Mixed-use / Industrial. The Board indicated that the addition of the word "Gross" (Gross Floor Area) would be acceptable. Ms. Michaud also suggested including Minor Land Development at the same rate as a Minor Subdivision. (There is currently no category on the schedule for a Minor Land Development.) The Board members also agreed to this addition by consensus.

Mr. Saurette made a motion to recommend the fee schedule, as amended, for adoption by the Town Council. Mr. Hardy seconded the motion. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Guimond, Mr. Corr, Mr. Holmes, Mr. Moniz and Mr. Saurette voted in favor of the motion.

D. Request from Town Council: Draft Zoning Ordinance Amendment to Provide for Solar Power Regulations – Discuss Work Plan Ms. Michaud stated that the Town Council had recently requested the Planning Board to look at the issue of solar power in Tiverton in response to a request from someone looking to install a solar farm on a vacant parcel of land in a residential district. Mr. Brochu noted that if the solar power was the primary use, it needs to be addressed in the Use Table. He noted that the Use Table currently contains "Electrical Power Generating Station", which could be applied. Ms. Eva asked if this would be a commercial use in a residential district. Mr. Brochu replied that there were many types of electric generation, including solar, wind and geothermal. It was noted that the "Electrical Power Generating Station" was only allowed by Special Use in the Industrial Zoning District – and it was not allowed in any other district. Mr. Brochu opined that without more direction from the Town Council it would be difficult to address the issue. He asked which zoning district should be considered. Ms. Eva agreed stating that more direction was needed.

E. Correspondence A letter from Bourne Mills, LLC regarding the status of future phases of development was distributed.

F. Miscellaneous

1. Comprehensive Community Plan Update – Open Houses at Tiverton Middle School – Wednesday, June 11 – 6:30-8:30 PM and Saturday, June 14 – 9:00 – 11:30 AM The dates were reviewed and flyers were distributed.

2. Wind Energy Generation Facilities – Update from Subcommittee There was no update.

3. Watershed Protection Overlay District Update: Conservation Commission Subcommittee/ Source Water Protection Ms. Michaud noted that the Atlantic States Rural Water and Wastewater Association had agreed to compile Source Water Protection Plans for Stafford Pond and Nonquit Pond. This work would be done with USDA funding and there would be no cost to the Town.

F. Approval of Minutes:

April 1, 2014 Mr. Hughes made a motion to approve the minutes. Mr. Hardy seconded the motion. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Guimond, Mr. Corr, Mr. Holmes, Mr. Moniz and Mr. Saurette voted in favor of the motion.

May 6, 2014 The minutes were not ready for a vote.

G. Adjournment: Mr. Holmes made a motion to adjourn. The motion was seconded by Mr. Hardy. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Guimond, Mr. Corr, Mr. Holmes, Mr. Moniz and Mr. Saurette voted in favor of the motion. The meeting adjourned at 10:30 P.M.

(Italicized words represent corrections made on the approved date.)

Submitted by: _____



Kate Michaud, Clerk

Approval Date: September 2, 2014